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CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

**"District Court of the United States"
District of Minnesota**

**United States of America
Plaintiff,**

v.

**William J. Mooney, Joni T. Mooney,
And Harbor Holdings, Mid-Atlantic
Trustees and Administrators,
Defendants.**

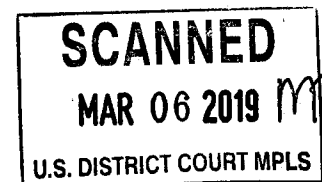
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Case No. 16-cv-02547-SRN-LIB

**DEFENDANTS' MOTION FOR THE REINSTATEMENT OF THE DISMISSAL
WITH PREJUDICE WITH THE WITHDRAWAL OF THE ORDER OF SALE
OR A NEW CONSTITUTIONAL BENCH TRIAL ARISING UNDER ARTICLE III
SECTIONS 1 AND 2 EXERCISING THE "JUDICIAL POWER OF THE UNITED
STATES"**

William Joseph Mooney and Joni Therese Mooney, ("Mooneys"), present this Defendants' Motion for Reinstatement of the Dismissal with Prejudice With the Withdrawal of the Order of Sale or a New Constitutional Bench Trial Arising under Article III Sections 1 and 2 Exercising the "judicial Power of the United States" and would show the Court the following:

1. Mooneys dispute the Order of Sale issued on February 6, 2019.
2. Mooneys assert that the Order of Sale cannot issue.
3. Mooneys assert that the Order of Sale is in violation of IRM and provisions of Title 26.
4. Mooneys assert there can be no collection against any property named in the Complaint and ensuing Order of Sale.
5. Mooneys assert the Court had evidence that Mooneys had never received a Notice of Deficiency or a Notice of Determination for the tax years enumerated in the Complaint. 26 U.S.C.)6330.
6. Mooneys assert the Court had evidence from the U. S. Tax Court that no requisite notices had been sent to the Mooneys.



7. Mooneys assert that claims made in the original Complaint at paragraph 8, 10, 11, 13, 14, 16, 17, 34, 35, 36, and 37 are in error.

8. Paragraphs 8, 10, 11, 13, 14, 16, 17, 34, 35, 36 and 37 of the original Complaint all assert that Notices were given and federal tax liens were filed in public record.

9. None of these assertions is correct.

10. The U. S. Tax Court determined that no Notices had been sent for the years named in the original Complaint.

11. This fact is in contradiction of the claims made in the original Complaint.

12. There are no federal tax liens filed in public record and Mooneys challenge Plaintiff to produce evidence of those "liens".

13. Mooneys admit there are Notices of Federal Tax Liens filed in public record, but no evidence was ever offered concerning the actual liens those notices are meant to represent.

14. Mooneys assert that no collection activity can occur until and unless the requisite actual notices have been sent.

15. Mooneys assert they were never engaged in the sale or trade of alcohol, tobacco, firearms and explosives.

16. Mooneys assert that they have never been engaged in a taxable trade which would generate tax liabilities.

17. Mooneys assert that Plaintiff is engaging in an action which is in violation of our fundamental scheme of ordered liberty.

18. Mooneys claim the Order of Sale is in violation of the 8th Amendment to the U. S. Constitution.

19. Mooneys assert that they live in a Republic.

20. Mooneys assert that in that Republic they are guaranteed the Right to life, liberty, the pursuit of happiness and the Right to own property which is unalienable.

21. Mooneys assert that governments were instituted among men to protect those Rights.

22. Mooneys assert that Plaintiff is in violation of the 4 Organic Laws of the Land.

23. Mooneys assert that Plaintiff's actions are in violation of the Constitution of the United States, particularly Art. 6, Sec. 2.

22. Mooneys assert the Order of Sale is in contravention to the Declaration of Independence.

23. The Right to own property is deeply rooted in this Nation's history and tradition.

24. Under the Eighth Amendment, "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted".

25. Mooneys assert that the Order of Sale is not only an excessive fine, it is cruel and unusual punishment.

26. 4 W. Blackstone, Commentaries on the Laws of England 372 (1769) state: "No man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear..."

27. What could be more injurious to a man and woman than to have their house taken from them and sold, leaving them bereft in the street?

28. Mooneys assert that the Order of Sale is a document which shows retaliation against the speech of the Mooneys who are seen as political enemies.

29. Even absent a political motive, fines may be employed "in a measure out of accord with the penal goals of retribution and deterrence, for fines are a "source of revenue" while other forms of punishment "cost a State money". *Harmelin v. Michigan*, 501 U.S. 957, 979, n.9 (1991)(opinion of Scalia, J.)("it makes sense to scrutinize governmental action more closely when the State stands to benefit.").

30. In *Austin v. U.S.*, 509 U.S. 602 (1993), the Supreme Court found that "civil *in rem* forfeitures are fines for purposes of the Eighth Amendment when they are at least partially punitive."

31. When the Court had no evidence to contradict the findings in the Motion to Dismiss from the U.S. Tax Court, namely, no actual notices of "Notice of Deficiency"

had been sent to the Mooneys, the action which must first be taken before collection can begin, it had to back away from a judgment for the Plaintiff.

32. When the Court had no evidence before it of valid liens against the Mooneys, it had to back away from an *in rem* judgment for the taking of the Mooneys' home.

33. Mooneys assert that this federal court no longer upholds, supports and protects the Constitution of the United States.

34. Mooneys assert that this federal court is exercising war powers, as explained by William Whiting in his book War Powers under the Constitution of the United States, to wit: page 323, Military Government: "And there can be no doubt that in civil war the laws of the United States, rightfully extending at all times over the whole country, are to be enforced, so far as applicable, in time of war, over the belligerent territory as fast as it comes under our military command."

35. And further, "The courts judicial, as established by laws of Congress in the seceded States, having been closed by civil war, may be reestablished whenever the districts over which they have jurisdiction shall be permanently reduced under the power of the United States." "It would be worse than useless to erect *judicial* courts before *peace* is completely restored."

36. Or, from Lincoln's General Order 100 itself, "A victorious army appropriates all public money, seizes all public movable property until further direction by its government, and sequesters for its own benefit or of that of its government all the revenues of real property belonging to the hostile government or nation. The title to such real property remains in abeyance during military occupation, and until the conquest is complete." "Private property, unless forfeited by crimes or by offenses of the owner, can be seized only by way of military necessity, for the support or other benefit of the army of the United States".

37. If that be the case in this court, if it is in fact, operating under martial law by military order, we do not consent.


38. Plaintiff has not given Mooneys notice nor has it declared nor revealed the powers or authority under which it proceeds.

39. If it is, indeed, a court of military jurisdiction, it has no jurisdiction to take from us, as we live in a Republic established by the Declaration of Independence, under that documents premises and promises, and no other.

40. This Order of Sale is in direct violation of the recent Holding in the Supreme Court of the United States including the violation of Due Process of Law, excessive fines and penalties clothed and secured in the Eighth and Fourteenth Amendments—See the Holding in *Times v. Indiana*, 2019 WL 691578 (Sup.Ct.U.S. Feb.20th, 2019), which this Court shall take Judicial Notice thereof.

40. We are at peace, in peace, on the land, and not subject to occupation.

FOR THESE REASONS, the Mooneys make this Demand, *i.e.* Motion for Reinstatement of the Dismissal with Prejudice With the Withdrawal of the Order of Sale or a New Constitutional Bench Trial Arising under Article III Sections 1 and 2 Exercising the “judicial Power of the United States”


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Joni Therese Mooney